

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Glinda Harris,)	
)	
Plaintiff,)	
)	
v.)	No. 1:20-cv-1316
)	
Second Round, L.P., a Texas limited)	
partnership,)	
)	
Defendant.)	<u>Jury Demanded</u>

COMPLAINT

Plaintiff, Glinda Harris, brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), for a finding that Defendant's collection actions violated the FDCPA, and to recover damages, and alleges:

JURISDICTION AND VENUE

1. This Court has jurisdiction, pursuant to § 1692k(d) of the FDCPA and 28 U.S.C. § 1331.

2. Venue is proper in this District because: a) the acts and transactions occurred here; b) Plaintiff resides here; and, c) Defendant transacts business here.

PARTIES

3. Plaintiff, Glinda Harris ("Harris"), is a citizen of the State of Illinois, residing in the Northern District of Illinois, from whom Defendant attempted to collect a defaulted consumer debt that she allegedly owed for a Comenity Bank credit card account.

4. Defendant, Second Round, L.P. ("Second Round"), is a Texas limited partnership that acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mails and/or the telephone to collect, or attempt to collect, defaulted

consumer debts that it did not originate. Second Round operates a defaulted debt collection business, and attempts to collect debts from consumers in many states, including consumers in the State of Illinois. In fact, Defendant Second Round was acting as a debt collector as to the defaulted consumer debt it attempted to collect from Plaintiff.

5. Defendant Second Round is a bad debt buyer that buys large portfolios of defaulted consumer debts for pennies on the dollar, which it then collects upon through other collection agencies. Defendant Second Round's principal, if not sole, business purpose is the collection of defaulted consumer debts originated by others.

6. Defendant Second Round is authorized to conduct business in Illinois, and maintains a registered agent here, see, record from Illinois Secretary of State, attached as Exhibit A. In fact, Defendant Second Round conducts extensive business in Illinois by writing to, and making credit reports on, hundreds of Illinois consumers.

FACTUAL ALLEGATIONS

7. Due to financial difficulties, Plaintiff was unable to pay her debts, including a consumer debt she allegedly owed to Comenity Bank for a credit card. Sometime after that debt went into default, it was allegedly purchased/obtained by Defendant Second Round, which then attempted to collect this debt from Ms. Harris, via a negative credit report. Not knowing who Defendant Second Round was, and unsure of the amount of the debt, Ms. Harris consulted with counsel about her debt issues and the debt that Second Round was trying to collect.

8. Accordingly, Ms. Harris' attorney wrote to Defendant Second Round, via a letter dated November 26, 2019, to dispute the debt Second Round was trying to

collect. A copy of this letter and facsimile confirmation are attached as Exhibit B.

9. On February 4, 2020, Ms. Harris obtained and reviewed a copy of her Experian credit report, which showed that Defendant Second Round had continued to report the debt, but had failed to note that the debt was disputed. The pertinent part of Ms. Harris' Experian credit report is attached as Exhibit C.

10. Defendant's violations of the FDCPA were material because Defendant's failure to note that the debt was disputed when Defendant reported, or continued to report, the debt on Plaintiff's credit report impaired her credit rating and her ability to obtain credit. Moreover, Defendant's failure to note, when reporting the debt on Plaintiff's credit report, that the debt was disputed made it appear to Plaintiff that she did not actually have the right to dispute the debt. Defendant's collection actions alarmed, confused and distressed Ms. Harris.

11. All of Defendant's collection actions at issue in this matter occurred within one year of the date of this Complaint.

12. Defendant's collection communications are to be interpreted under the "unsophisticated consumer" standard, see, Gammon v. GC Services, Ltd. Partnership, 27 F.3d 1254, 1257 (7th Cir. 1994).

COUNT I
Violation Of § 1692e Of The FDCPA –
False or Misleading Representations

13. Plaintiff adopts and realleges ¶¶ 1-12.

14. Section 1692e of the FDCPA prohibits debt collectors from using any false, deceptive or misleading means to collect or attempt to collect a debt, including, but not limited to, communicating or threatening to communicate to any person credit

information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed, see 15 U.S.C. § 1692e(8) (“...the following conduct is a violation of this section...including the failure to communicate that a disputed debt is disputed...”); see also, Evans v. Portfolio Associates, 889 F.3d 337, 346 (7th Cir. 2018); Sayles v. Advanced Recovery Systems, 865 F.3d 246, 249-250 (5th Cir. 2017); and Brady v. Credit Recovery, 160 F.3d 64, 65 (1st Cir. 1998).

15. Defendant, by continuing to report the debt to credit reporting agencies, when it knew the debt was disputed by the consumer, and failing to report that the debt was disputed, used false, deceptive or misleading means to collect or attempt to collect a debt, in violation of § 1692e(8) of the FDCPA.

16. Defendant’s violation of § 1692e(8) of the FDCPA renders it liable for actual and statutory damages, costs, and reasonable attorneys’ fees, see, 15 U.S.C. § 1692k.

COUNT II
Violation Of § 1692f Of The FDCPA --
Unfair Or Unconscionable Collection Actions

17. Plaintiff adopts and realleges ¶¶ 1-12.

18. Section 1692f of the FDCPA prohibits a debt collector from using any unfair or unconscionable means to collect or attempt to collect a debt, see, 15 U.S.C. § 1692f.

19. Defendant, by continuing to report the debt to credit reporting agencies, when it knew the debt was disputed by Plaintiff, used unfair or unconscionable means to collect, or attempt to collect, a debt, in violation of § 1692f of the FDCPA.

20. Defendant’s violation of § 1692f of the FDCPA renders it liable for

actual and statutory damages, costs, and reasonable attorneys' fees, see, 15 U.S.C. § 1692k.

PRAYER FOR RELIEF

Plaintiff, Glinda Harris, prays that this Court:

1. Find that Defendant's collection practices violate the FDCPA;
2. Enter judgment in favor of Plaintiff Harris, and against Defendant, for actual and statutory damages, costs, and reasonable attorneys' fees as provided by § 1692k(a) of the FDCPA; and,
3. Grant such further relief as deemed just.

JURY DEMAND

Plaintiff, Glinda Harris, demands trial by jury.

Glinda Harris,
By: /s/ David J. Philipps
One of Plaintiff's Attorneys

Dated: February 21, 2020

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